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CITY OF DESERT HOT SPRINGS, and TUAN-ANH VU

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

JOSEPH MINER, an individual,

Plaintiff,

vs.

CITY OF DESERT HOT SPRINGS, a
municipal corporation; et al.,

Defendants.

Case No. 8:24-cv-02793-CAS-E
Related Case No: 8:22-cv-01043-CAS-
MAA

**DEFENDANTS' OBJECTIONS TO
EVIDENCE SUBMITTED BY
PLAINTIFF IN OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS
FIRST AMENDED COMPLAINT AND
(PROPOSED) ORDER**

Date: Vacated
Time: Vacated
Dept: 8D

Complaint filed: December 23, 2024
Charles F. Eick, United States Magistrate
Judge

Defendants, CITY OF DESERT HOT SPRINGS, and TUAN-ANH VU (the
"Defendants") hereby object to the following evidence submitted by Plaintiff in
Opposition to Defendants' Motion to Dismiss First Amended Complaint, via the

Declaration of Joseph Miner, as follows:

MATTER OBJECTED TO	GROUND OF OBJECTION	RULING
<p>1. “EXHIBIT 1 - Defendant Vu attempts to again evade service. The registered process server attempted to serve defendant who at the city. Assistant city clerk Dan McVey a stated to the process server McVey had authority to accept service for defendant Vu. In an abundance of caution the process server visited the City three times pursuant to California law and legally subserve defendant Vu at the City offices. On Thursday March 6, 2025 I emailed defendant Vu the complaint to two email addresses. I received an email in return from Mario Alfaro who states he represents defendant Vu and he will accept service via email. Defendant Vu was served at the City pursuant to California law by US postal mail, and by email. See both attached</p>	<p>Objection. Immaterial and irrelevant. Lack of foundation. Hearsay. “Ordinarily, a motion to dismiss under Fed.R.Civ.P. 12(b)(6) is addressed to the four corners of the complaint without consideration of other documents or facts outside of the complaint.” <i>Haskell v. Time, Inc.</i>, 857 F.Supp. 1392, 1396 (E.D. Cal. 1994). A complaint is deemed to include any documents attached as exhibits and any documents incorporated into the complaint by reference. <i>Federal Rules of Civil Procedure</i>, Rule 10(c). The Court in <i>Alexander v. Kujok</i>, 158 F.Supp.3d 1012, 1022 (E.D. Cal. 2016) found that an argument made based on a party’s supporting declaration stems from matters</p>	<p><input type="checkbox"/> sustained <input type="checkbox"/> overruled</p>

1	exhibit #1 and document #19	outside the pleading and	
2	filed with the court. Mr. Vu	therefore should not be	
3	has been served pursuant to	considered in the context of a	
4	California law. Defendant Vu	motion to dismiss.	
5	used the same evasive tactics as		
6	an Officer of the City and an	The First Amended Complaint	
7	Officer of the court in stayed	does not include any of these	
8	case 8:22-cv-01043-CAS-MAA.	materials.	
9	(Declaration of Joseph Miner,		
10	¶6, Page 32, Lines 13 – 23.)	Unsuccessful service attempts	
11		are immaterial to whether	
12		service was properly	
13		effectuated.	
14			
15		These materials are not	
16		sufficiently authenticated.	
17		Facts not in evidence.	
18		Speculative conjecture.	
19	2. “ EXHIBIT #2 - Attached is	Objection. Immaterial and	<input type="checkbox"/> sustained
20	the judgment of dismissal case	irrelevant. Lack of foundation.	<input type="checkbox"/> overruled
21	CVPS2106001. This is the case	These documents are beyond	
22	regarding the failure to issue	the four corners of Plaintiff’s	
23	notice, the un-litigated citation,	First Amended Complaint.	
24	the failure to provide an	(See <i>Haskell v. Time, Inc.</i> , 857	
25	administrative hearing. Nothing	F.Supp. 1392, 1396 (E.D. Cal.	
26	has been adjudicated.”	1994); <i>Alexander v. Kujok</i> , 158	
27	(Declaration of Joseph Miner,	F.Supp.3d 1012, 1022 (E.D.	
28	¶7, Page 32, Lines 24 – 26.)	Cal. 2016).) Plaintiff’s First	

1		Amended Complaint does not	
2		include any of these purported	
3		relevant materials.	
4			
5		These materials are not	
6		sufficiently authenticated.	
7		Facts not in evidence.	
8		Speculative conjecture.	
9	3. “ EXHIBIT #3 - England	Objection. Immaterial and	<input type="checkbox"/> sustained
10	Reservation case CVPS2106001	irrelevant. Lack of foundation.	<input type="checkbox"/> overruled
11	constitutional claims.”	These documents are beyond	
12	(Declaration of Joseph Miner,	the four corners of Plaintiff’s	
13	¶8, Page 32, Line 27.)	First Amended Complaint.	
14		(See <i>Haskell v. Time, Inc.</i> , 857	
15		F.Supp. 1392, 1396 (E.D. Cal.	
16		1994); <i>Alexander v. Kujok</i> , 158	
17		F.Supp.3d 1012, 1022 (E.D.	
18		Cal. 2016).) Plaintiff’s First	
19		Amended Complaint does not	
20		include any of these purported	
21		relevant materials.	
22			
23		These materials are not	
24		sufficiently authenticated.	
25		Facts not in evidence.	
26		Speculative conjecture.	
27			
28			

<p>1 4. “EXHIBIT #4 - Affirmative 2 Defenses case CVPS2106001 3 constitutional defenses. 4 (Declaration of Joseph Miner, 5 ¶9, Page 32, Line 28.)</p>	<p>Objection. Immaterial and irrelevant. Lack of foundation. These documents are beyond the four corners of Plaintiff’s First Amended Complaint. (See <i>Haskell v. Time, Inc.</i>, 857 F.Supp. 1392, 1396 (E.D. Cal. 1994); <i>Alexander v. Kujok</i>, 158 F.Supp.3d 1012, 1022 (E.D. Cal. 2016).) Plaintiff’s First Amended Complaint does not include any of these purported relevant materials.</p> <p>These materials are not sufficiently authenticated. Facts not in evidence. Speculative conjecture.</p>	<p><input type="checkbox"/> sustained <input type="checkbox"/> overruled</p>
<p>19 5. “EXHIBIT #5 - Letter to 20 Luke Rainy city manager 21 regarding the abusive treatment 22 by the code officer. (This is 23 where the code issues began) 24 included as evidence.” 25 (Declaration of Joseph Miner, 26 ¶9, Page 33, Lines 1 - 2.)</p>	<p>Objection. Immaterial and irrelevant. Lack of foundation. These documents are beyond the four corners of Plaintiff’s First Amended Complaint. (See <i>Haskell v. Time, Inc.</i>, 857 F.Supp. 1392, 1396 (E.D. Cal. 1994); <i>Alexander v. Kujok</i>, 158 F.Supp.3d 1012, 1022 (E.D. Cal. 2016).) Plaintiff’s First</p>	<p><input type="checkbox"/> sustained <input type="checkbox"/> overruled</p>

1		Amended Complaint does not	
2		include any of these purported	
3		relevant materials.	
4		These materials are not	
5		sufficiently authenticated.	
6		Facts not in evidence.	
7		Speculative conjecture.	
8	6. “EXHIBIT #6 - Demurrer in	Objection. Immaterial and	<input type="checkbox"/> sustained
9	case CVPS2106001 to citation	irrelevant. Lack of foundation.	<input type="checkbox"/> overruled
10	#27948D. Document only	These documents are beyond	
11	provided to exhibit surgical	the four corners of Plaintiff’s	
12	breakdown of gross legal and	First Amended Complaint.	
13	factual inadequacies in the City’s	(See <i>Haskell v. Time, Inc.</i> , 857	
14	civil charging document used in	F.Supp. 1392, 1396 (E.D. Cal.	
15	the civil case. The subordinate	1994); <i>Alexander v. Kujok</i> , 158	
16	judicial officer’s ruling was	F.Supp.3d 1012, 1022 (E.D.	
17	that a party cannot demurrer	Cal. 2016).) Plaintiff’s First	
18	to an administrative citation.	Amended Complaint does not	
19	The demurrer cites the due	include any of these purported	
20	process issues and constitutional	relevant materials.	
21	law. The document is persuasive		
22	support for the due process count	These materials are not	
23	alleged against City defendants.	sufficiently authenticated.	
24	It is a true and correct copy of	Facts not in evidence.	
25	the document filed with the	Speculative conjecture.	
26	court. (Riverside county superior		
27	court charges exorbitant fees to		
28	download file stamped copies		

1 and provides no filed stamped
2 copies upon submission of
3 documents electronically.”
4 (Declaration of Joseph Miner,
5 ¶9, Page 33, Lines 3 - 10.)

6
7 IT IS SO ORDERED,
8

9 Dated: _____, 2025
10

11 By: _____
12 Charles F. Eick
13 United States Magistrate Judge
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22 10595 - Joseph Miner v. Christina New...05-01-2021/PLEADINGS/NEW COMPLAINT/MOTION TO DISMISS NEW FAC/Objections to Evidence and
23 Order.doc
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CERTIFICATE OF SERVICE

I hereby certify that on May 7, 2025, I electronically filed the foregoing **DEFENDANTS' OBJECTIONS TO EVIDENCE SUBMITTED BY PLAINTIFF IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS FIRST AMENDED COMPLAINT AND (PROPOSED) ORDER** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the ECF registrants at the email addresses indicated on the attached below:

Joseph Miner P.O. Box 11650 Costa Mesa, CA 92627 Telephone: (949) 903-5051 Email: josephminer@gmail.com In Pro Se, JOSEPH MINER	
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I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 7, 2025, at Riverside, California.

_____/s/_____
Caroline M. Lyons
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